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The Honorable Robert S. Lasnik

MAR 06 2020

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
DEJON ROMANS BROWN,  
Defendant.

NO. CR20-030-RSL

**PLEA AGREEMENT**

The United States of America, by and through Brian T. Moran, United States Attorney for the Western District of Washington, and J. Tate London, Assistant United States Attorney for said District, Defendant Dejon Romans Brown and Defendant's attorney, Gregory Geist, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A).

1. **The Charge.** Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enters a plea of guilty to the following charge: Use of a Counterfeit Access Device with Intent to Defraud (more than \$1,000), in violation of Title 18, United States Code, Section 1029(a)(2) and (c)(1)(A)(i), as charged in Count One of the Indictment filed in the Middle District of Florida at

1 criminal number 5:19-cr-77-Oc-28PRL and transferred, pursuant to Rule 20, to the  
2 Western District of Washington on March 2, 2020.

3 By entering a plea of guilty, Defendant hereby waives all objections to the form of  
4 the charging document. Defendant further understands that before entering any guilty  
5 plea, Defendant will be placed under oath. Any statement given by Defendant under oath  
6 may be used by the United States in a prosecution for perjury or false statement.

7 **2. Elements of the Offense.** The elements of the offense to which Defendant  
8 is pleading guilty, that is the offense of Use of a Counterfeit Access Device with Intent to  
9 Defraud (more than \$1,000), as charged in Count One of the Indictment, are as follows:

10 *First*, the defendant knowingly used or trafficked in one or more  
11 unauthorized access devices;

12 *Second*, the defendant, during a 12-month period, obtained a thing or  
13 things of value totaling \$1,000 or more as a result of such use or trafficking of  
14 unauthorized access devices;

15 *Third*, the defendant acted with the intent to defraud or deceive; and

16 *Fourth*, the defendant's conduct affected interstate or foreign commerce.

17 **3. The Penalties.** The Defendant understands that the statutory penalties  
18 applicable to the offense to which Defendant is pleading guilty, that is, Use of a  
19 Counterfeit Access Device with Intent to Defraud (more than \$1,000), as charged in  
20 Count One of the Indictment, are as follows: A maximum term of imprisonment of up to  
21 10 years, a fine of up to \$250,000 or twice the gross gain caused by the offense, or twice  
22 the gross loss caused by the offense, whichever is greater, a period of supervision  
23 following release from prison of up to 3 years, and a mandatory special assessment of  
24 \$100. If a probationary sentence is imposed, the probation period can be for up to five  
25 (5) years.

26 Defendant understands that supervised release is a period of time following  
27 imprisonment during which Defendant will be subject to certain restrictive conditions and  
28 requirements. Defendant further understands that, if supervised release is imposed and

1 Defendant violates one or more of the conditions or requirements, Defendant could be  
2 returned to prison for all or part of the term of supervised release that was originally  
3 imposed. This could result in Defendant serving a total term of imprisonment greater  
4 than the statutory maximum stated above.

5 Defendant understands that as a part of any sentence, in addition to any term of  
6 imprisonment and/or fine that is imposed, the Court may order Defendant to pay  
7 restitution to any victim of the offense, as required by law.

8 Defendant further understands that the consequences of pleading guilty may  
9 include the forfeiture of certain property, either as a part of the sentence imposed by the  
10 Court, or as a result of civil judicial or administrative process.

11 Defendant agrees that any monetary penalty the Court imposes, including the  
12 special assessment, fine, costs, or restitution, is due and payable immediately and further  
13 agrees to submit a completed Financial Statement of Debtor form as requested by the  
14 United States Attorney's Office.

15 **4. Immigration Consequences.** Defendant recognizes that pleading guilty  
16 may have consequences with respect to his immigration status if he is not a citizen of the  
17 United States. Under federal law, a broad range of crimes are grounds for removal, and  
18 some offenses make removal from the United States presumptively mandatory. Removal  
19 and other immigration consequences are the subject of a separate proceeding, and  
20 Defendant understands that no one, including Defendant's attorney and the Court, can  
21 predict with certainty the effect of a guilty plea on immigration status. Defendant  
22 nevertheless affirms that Defendant wants to plead guilty regardless of any immigration  
23 consequences that Defendant's guilty plea may entail, even if the consequence is  
24 Defendant's mandatory removal from the United States.

25 **5. Rights Waived by Pleading Guilty.** Defendant understands that by  
26 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

27 a. The right to plead not guilty and to persist in a plea of not guilty;  
28

- b. The right to a speedy and public trial before a jury of Defendant's peers;
- c. The right to the effective assistance of counsel at trial, including, if Defendant could not afford an attorney, the right to have the Court appoint one for Defendant;
- d. The right to be presumed innocent until guilt has been established beyond a reasonable doubt at trial;
- e. The right to confront and cross-examine witnesses against Defendant at trial;
- f. The right to compel or subpoena witnesses to appear on Defendant's behalf at trial;
- g. The right to testify or to remain silent at trial, at which trial such silence could not be used against Defendant; and
- h. The right to appeal a finding of guilt or any pretrial rulings.

6. **United States Sentencing Guidelines.** Defendant understands and acknowledges that the Court must consider the sentencing range calculated under the United States Sentencing Guidelines and possible departures under the Sentencing Guidelines together with the other factors set forth in Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances of the offense; (2) the history and characteristics of Defendant; (3) the need for the sentence to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (4) the need for the sentence to afford adequate deterrence to criminal conduct; (5) the need for the sentence to protect the public from further crimes of Defendant; (6) the need to provide Defendant with educational and vocational training, medical care, or other correctional treatment in the most effective manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims; and (9) the need to avoid unwarranted sentence disparity among defendants involved in similar conduct who have similar records. Accordingly, Defendant understands and acknowledges that:

1           a.       The Court will determine Defendant's Sentencing Guidelines range  
2 at the time of sentencing;

3           b.       After consideration of the Sentencing Guidelines and the factors in  
4 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the  
5 maximum term authorized by law;

6           c.       The Court is not bound by any recommendation regarding the  
7 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines  
8 range offered by the parties or the United States Probation Department, or by any  
9 stipulations or agreements between the parties in this Plea Agreement; and

10          d.       Defendant may not withdraw a guilty plea solely because of the  
11 sentence imposed by the Court.

12          7.       **Ultimate Sentence.** Defendant acknowledges that no one has promised or  
13 guaranteed what sentence the Court will impose.

14          8.       **Rule 20 Transfer.** Defendant requested, and the United States Attorneys  
15 for the Middle District of Florida and the Western District of Washington agreed to, the  
16 transfer of Defendant's case to the Western District of Washington pursuant to Rule 20 of  
17 the Federal Rules of Criminal Procedure solely for the purpose of entering a plea of  
18 guilty and the imposition of sentence. The Government's approval of the transfer of the  
19 case is conditioned upon Defendant entering a guilty plea pursuant to this Plea  
20 Agreement in the Western District of Washington. Should Defendant not enter a guilty  
21 plea pursuant to this Agreement, or otherwise breach this Agreement, Defendant consents  
22 to the return of the prosecution to the Middle District of Florida and agrees that he will  
23 not oppose any such requests by the United States.

24          9.       **Ineligibility for DREAM Court.** The Government's consent to, and  
25 approval of, the transfer of the case is further conditioned upon Defendant not seeking  
26 acceptance into this Court's Drug Reentry Alternative Model (DREAM) program.

27          10.       **Statement of Facts.** The parties agree on the following facts. Defendant  
28 admits Defendant is guilty of the charged offense:

1           a.       On December 21, 2018, the computer system at the Sumter County  
2 School District (located in Bushnell, Florida, in the Middle District of Florida) was  
3 attacked by a malicious software. The cyber-attack compromised the computers and  
4 allowed for the perpetrator to acquire the log-in and password for a bank account held for  
5 the school district at Regions Bank. Thereafter, five unauthorized access devices were  
6 issued by Regions Bank for individuals purporting to be authorized users of the account.  
7 In fact, none of the names were known to the Sumter County School District and none of  
8 them were authorized to make charges to their account.

9           b.       One of those five unauthorized cards was issued in the name "Dustin  
10 Fugate" and was sent to an address used by the defendant in Lancaster, California. The  
11 defendant received the unauthorized credit card ending in 4008 and listed in the name of  
12 "Dustin Fugate" at the aforementioned address.

13           c.       Thereafter, on January 2, 2019, through January 6, 2019, the  
14 defendant used the fraudulently obtained credit card to make purchases totaling  
15 \$58,596.54. The following transactions were some of the many transactions completed  
16 by the defendant using the credit card ending in 4008:

17                   i.     January 2, 2019, Wal-Mart #2951, Lancaster, California  
18                           93535; Amount \$491.66;

19                   ii.    January 2, 2019, Apple Store, 9301 Tampa Ave, Northridge,  
20                           California 91324; Amounts \$11,106.62, \$3,173.32,  
21                           \$3,173.32, \$3,173.32, \$3,173.32 and \$3,173.32;

22                   iii.   January 2, 2019, Apple Store, 6600 Topanga Canyon Blvd.,  
23                           Canoga Park, California 91303; Amount \$13,676.60;

24                   iv.    January 2, 2019, Apple Store, 24201 West Valencia Blvd,  
25                           Valencia, California 91355; Amounts \$1,586.66, \$6,346.64,  
26                           \$3,173.32, \$3,173.32 and \$3,173.32.

27           d.       Defendant was captured on surveillance video at each of the above  
28 listed stores while using the card ending in 4008.



1 e. For each of these transactions, Defendant represented himself to the  
2 store clerks to be "Dustin Fugate" when in fact he knew then and there that he was not  
3 "Dustin Fugate" and that he was not authorized to make purchases using the Regions  
4 Bank credit card.

5 f. The bank account for the Sumter County School District is held in  
6 Bushnell, Florida. The headquarters of Regions Bank is located in Birmingham,  
7 Alabama. The credit card ending in 4008 was issued in Texas and sent to Defendant in  
8 Lancaster, California, via the United States Postal Service. All of the above-listed  
9 transactions were completed electronically using the credit card ending in 4008. Each  
10 time Defendant used the credit card, a signal was routed electronically over the internet  
11 through computer servers for approval by the overseeing financial entity, Regions Bank.  
12 Once approved, a similar process occurred, in reverse order, which provided electronic  
13 authorization for the purchase at the point of sale. As a result, the consequences of  
14 Defendant's actions affected interstate or foreign commerce.

15 g. The parties agree that the Court may consider additional facts  
16 contained in the Presentence Report (subject to standard objections by the parties) and/or  
17 that may be presented by the United States or Defendant at the time of sentencing, and  
18 that the factual statement contained herein is not intended to limit the facts that the parties  
19 may present to the Court at the time of sentencing.

20 **11. Sentencing Factors.** The parties agree that the following Sentencing  
21 Guidelines provisions apply to this case:

22 a. The base offense level for the offense of conviction is level 6,  
23 pursuant to Guideline § 2B1.1(a)(2);

24 b. The offense involved more than \$40,000, but less than \$95,000, and  
25 therefore a 6-level increase applies, pursuant to Guideline § 2B1.1(b)(1)(D); and

26 c. The offense involved the production or trafficking of an  
27 unauthorized access device, and therefore a 2-level increase applies, pursuant to  
28 Guideline § 2B1.1(b)(11)(B)(i).

14 JK ca DB

1 The resulting total offense level is ~~16~~.

2 The government submits that the offense involved a misrepresentation that  
3 Defendant was acting on behalf of an educational organization, and therefore a 2-level  
4 increase applies, pursuant to Guideline § 2B1.1(b)(9).

5 The parties agree they are free to present arguments regarding the applicability of  
6 all other provisions of the United States Sentencing Guidelines. Defendant understands,  
7 however, that at the time of sentencing, the Court is free to reject these stipulated  
8 adjustments, and is further free to apply additional downward or upward adjustments in  
9 determining Defendant's Sentencing Guidelines range.

10 **12. Acceptance of Responsibility.** At sentencing, *if* the Court concludes  
11 Defendant qualifies for a downward adjustment acceptance for acceptance of  
12 responsibility pursuant to USSG § 3E1.1(a) and Defendant's offense level is 16 or  
13 greater, the United States will make the motion necessary to permit the Court to decrease  
14 the total offense level by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because  
15 Defendant has assisted the United States by timely notifying the United States of  
16 Defendant's intention to plead guilty, thereby permitting the United States to avoid  
17 preparing for trial and permitting the Court to allocate its resources efficiently.

18 **13. Restitution.** Defendant shall make restitution to Sumter County School  
19 Board, 2680 West County Road 476, Bushnell, Florida, 33513, in the amount of  
20 \$58,596.54 with credit for any amounts already paid.

21 a. The full amount of restitution shall be due and payable immediately  
22 on entry of judgment and shall be paid as quickly as possible. If the Court finds that the  
23 defendant is unable to make immediate restitution in full and sets a payment schedule as  
24 contemplated in 18 U.S.C. § 3664(f), Defendant agrees that the Court's schedule  
25 represents a minimum payment obligation and does not preclude the U.S. Attorney's  
26 Office from pursuing any other means by which to satisfy Defendant's full and  
27 immediately-enforceable financial obligation, including, but not limited to, by pursuing  
28



1 assets that come to light only after the district court finds that the defendant is unable to  
2 make immediate restitution.

3           b. Defendant agrees to disclose all assets in which he has any interest  
4 or over which he exercises control, directly or indirectly, including those held by a  
5 spouse, nominee, or third party. Defendant agrees to cooperate fully with the United  
6 States' investigation identifying all property in which Defendant has an interest and with  
7 the United States' lawful efforts to enforce prompt payment of the financial obligations to  
8 be imposed in connection with this prosecution. Defendant's cooperation obligations are:  
9 (1) before sentencing, and no more than 30 days after executing this Plea Agreement,  
10 truthfully and completely executing a Financial Disclosure Statement provided by the  
11 United States Attorney's Office and signed under penalty of perjury regarding  
12 Defendant's and his spouse's financial circumstances and producing supporting  
13 documentation, including tax returns, as requested; (2) providing updates with any  
14 material changes in circumstances, as described in 18 U.S.C. § 3664(k), within seven  
15 days of the event giving rise to the changed circumstances; (3) authorizing the United  
16 States Attorney's Office to obtain Defendant's credit report before sentencing; (4)  
17 providing waivers, consents or releases requested by the U.S. Attorney's Office to access  
18 records to verify the financial information; (5) authorizing the U.S. Attorney's Office to  
19 inspect and copy all financial documents and information held by the U.S. Probation  
20 Office; (6) submitting to an interview regarding Defendant's Financial Statement and  
21 supporting documents before sentencing (if requested by the United States Attorney's  
22 Office), and fully and truthfully answering questions during such interview and (7)  
23 notifying the United States Attorney's Office before transferring any interest in property  
24 owned directly or indirectly by Defendant, including any interest held or owned in any  
25 other name, including all forms of business entities and trusts.

26           c. The parties acknowledge that voluntary payment of restitution prior  
27 to the adjudication of guilt is a factor the Court considers in determining whether  
28 Defendant qualifies for acceptance of responsibility pursuant to USSG § 3E1.1(a).

1       **14. Forfeiture.** Defendant understands that the forfeiture of property is part of  
2 the sentence that must be imposed in this case. Defendant agrees to forfeit to the United  
3 States immediately his right, title, and interest in any and all property that constitutes  
4 proceeds he obtained a result of his commission of Use of a Counterfeit Access Device  
5 with Intent to Defraud, as well as any property that facilitated that offense. All such  
6 property is forfeitable pursuant to Title 18, United States Code, Sections 982(a)(2)(B) and  
7 1029(c)(1)(C), and includes but is not limited to:

8           a.       a sum of money in the amount of \$58,596.54, representing the  
9 proceeds Defendant obtained from the offense. Defendant understand and acknowledges  
10 this forfeited sum of money is separate and distinct from the restitution that is ordered in  
11 this case. The United States agrees, however, that it will request the Attorney General  
12 apply any amounts it collects toward satisfaction of this forfeited sum to the restitution  
13 that is ordered. The United States also agrees that any amount the Defendant pays toward  
14 restitution will be credited against this forfeited sum.

15       Defendant agrees to fully assist the United States in the forfeiture of any  
16 forfeitable property, and to take whatever steps are necessary to pass clear title to the  
17 United States, including but not limited to: surrendering title and executing any  
18 documents necessary to effect forfeiture; assisting in bringing any property located  
19 outside the United States within the jurisdiction of the United States; and taking whatever  
20 steps are necessary to ensure that property subject to forfeiture is not sold, disbursed,  
21 wasted, hidden, or otherwise made unavailable for forfeiture. Defendant agrees not to  
22 file a claim to any forfeitable property in any federal forfeiture proceeding, administrative  
23 or judicial, that may be initiated. Defendant also agrees he will not assist any party who  
24 may file a claim in any related federal judicial forfeiture proceeding.

25       The United States reserves its right to proceed against any remaining property not  
26 identified in this Plea Agreement, including any property in which Defendant has any  
27 interest or control, if that property constitutes or is traceable to proceeds of his  
28

1 commission of Use of a Counterfeit Access Device with Intent to Defraud, or facilitated  
2 that offense.

3       **15. Abandonment of Contraband.** Defendant also agrees that, if any federal  
4 law enforcement agency seized any illegal contraband that was in his direct or indirect  
5 control, Defendant consents to the federal administrative disposition, official use, and/or  
6 destruction of that contraband.

7       **16. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,  
8 the United States Attorney's Office for the Western District of Washington and for the  
9 Middle District of Florida agree not to prosecute Defendant for any additional offenses  
10 known to it as of the time of this Plea Agreement based upon evidence in its possession at  
11 this time, and that arise out of the conduct giving rise to this investigation.

12       In this regard, Defendant recognizes the United States has agreed not to prosecute  
13 all of the criminal charges the evidence establishes were committed by Defendant solely  
14 because of the promises made by Defendant in this Plea Agreement. Defendant agrees,  
15 however, that for purposes of preparing the Presentence Report, the United States  
16 Attorney's Office will provide the United States Probation Office with evidence of all  
17 conduct committed by Defendant.

18       **17. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if he  
19 breaches this Plea Agreement, the United States may withdraw from this Plea Agreement  
20 and Defendant may be prosecuted for all offenses for which the United States has  
21 evidence. Defendant agrees not to oppose any steps taken by the United States to nullify  
22 this Plea Agreement, including the filing of a motion to withdraw from the Plea  
23 Agreement. Defendant also agrees that, if he is in breach of this Plea Agreement,  
24 Defendant has waived any objection to the re-institution of any charges that previously  
25 were dismissed or any additional charges that had not been prosecuted.

26       Defendant further understands that if, after the date of this Agreement, he should  
27 engage in illegal conduct, or conduct that violates any conditions of release or the  
28 conditions of confinement (examples of which include, but are not limited to, obstruction

1 of justice, failure to appear for a court proceeding, criminal conduct while pending  
 2 sentencing, and false statements to law enforcement agents, the Pretrial Services Officer,  
 3 Probation Officer, or Court), the United States is free under this Plea Agreement to file  
 4 additional charges against Defendant or to seek a sentence that takes such conduct into  
 5 consideration by requesting the Court to apply additional adjustments or enhancements in  
 6 its Sentencing Guidelines calculations in order to increase the applicable advisory  
 7 Guidelines range, and/or by seeking an upward departure or variance from the calculated  
 8 advisory Guidelines range. Under these circumstances, the United States is free to seek  
 9 such adjustments, enhancements, departures, and/or variances even if otherwise  
 10 precluded by the terms of the Plea Agreement.

11 **18. Waiver of Appellate Rights and Rights to Collateral Attacks.**

12 Defendant acknowledges that, by entering the guilty plea required by this Plea  
 13 Agreement, Defendant waives all rights to appeal from Defendant's conviction and any  
 14 pretrial rulings of the Court. Defendant further agrees that, provided the Court imposes a  
 15 custodial sentence that is within or below the Sentencing Guidelines range (or the  
 16 statutory mandatory minimum, if greater than the Guidelines range) as determined by the  
 17 Court at the time of sentencing, Defendant waives to the full extent of the law:

18 a. Any right conferred by Title 18, United States Code, Section 3742,  
 19 to challenge, on direct appeal, the sentence imposed by the Court, including any fine,  
 20 restitution order, probation or supervised release conditions, or forfeiture order (if  
 21 applicable); and

22 b. Any right to bring a collateral attack against the conviction and  
 23 sentence, including any restitution order imposed, except as it may relate to the  
 24 effectiveness of legal representation.

25 Defendant acknowledges having received sufficient consideration in exchange for  
 26 waiving the rights defined in this paragraph; specifically, Defendant acknowledges that  
 27 the Government's agreement to transfer the case from the Middle District of Florida to  
 28

1 the Western District of Washington, at the Defendant's request pursuant to Rule 20,  
2 provides sufficient consideration for such waiver.

3 This waiver does not preclude Defendant from bringing an appropriate motion  
4 pursuant to 28 U.S.C. § 2241, to address the conditions of Defendant's confinement or  
5 the decisions of the Bureau of Prisons regarding the execution of Defendant's sentence.

6 If Defendant breaches this Plea Agreement at any time by appealing or collaterally  
7 attacking (except as to effectiveness of legal representation) the conviction or sentence in  
8 any way, the United States may prosecute Defendant for any counts, including those with  
9 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea  
10 Agreement.

11 **19. Voluntariness of Plea.** Defendant agrees that he has entered into this Plea  
12 Agreement freely and voluntarily, and that no threats or promises were made to induce  
13 Defendant to enter a plea of guilty other than the promises contained in this Plea  
14 Agreement or set forth on the record at the change of plea hearing in this matter.

15 **20. Statute of Limitations.** In the event this Plea Agreement is not accepted  
16 by the Court for any reason, or Defendant breaches any of the terms of this Plea  
17 Agreement, the statute of limitations shall be deemed to have been tolled from the date of  
18 the Plea Agreement to: (1) thirty (30) days following the date of non-acceptance of the  
19 Plea Agreement by the Court; or (2) thirty (30) days following the date on which a breach  
20 of the Plea Agreement by Defendant is discovered by the United States Attorney's  
21 Office.

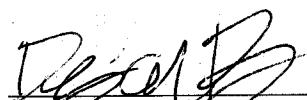
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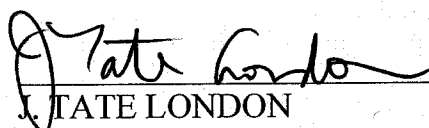
21. **Completeness of Agreement.** The United States and Defendant acknowledge that these terms constitute the entire Plea Agreement between the parties, except as may be set forth on the record at the change of plea hearing in this matter. This Agreement binds only the United States Attorney's Office for the Western District of Washington and the Middle District of Florida. It does not bind any other United States Attorney's Office or any other office or agency of the United States, or any state or local prosecutor.

Dated this 6<sup>th</sup> day of March, 2020.

  
 DEJON ROMANS BROWN  
 Defendant

  
 GREGORY GEIST  
 Attorney for Defendant

to-   
 SARAH VOGEL  
 Assistant United States Attorney

  
 J. TATE LONDON  
 Assistant United States Attorney